

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL L. SHAKMAN, PAUL M.)	
LURIE, KENNETH AYERS, ANN M.)	
KING, INDEPENDENT VOTERS OF)	
ILLINOIS-INDEPENDENT PRECINCT)	
ORGANIZATION, MICHAEL)	
SULLIVAN, DARRYN JONES,)	
STUART MAJERCZYK, RICHARD)	
GRAMAROSSA and CONNIE)	
GRAMAROSSA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 69 C 2145
)	Magistrate Judge Schenkier
COUNTY OF COOK, et. al)	
Defendants.)	
)	

**MONTHLY REPORT OF THE SHAKMAN COMPLIANCE ADMINISTRATOR
FOR THE FOREST PRESERVE DISTRICT OF COOK COUNTY
October, 2011**

Jan Carlson, *Shakman* Compliance Administrator for the Forest Preserve District of Cook County (the “District”), by and through his attorney, Peter Monahan, submits this Monthly Report pursuant to the order of the court entered March 5, 2009.

I. INTRODUCTION

Pursuant to the Supplementary Relief Order (“SRO”), entered on March 5, 2009, the *Shakman* Compliance Administrator (the “DCA”)¹ is charged with (1) studying existing employment practices for nonpolitical hiring, promotion, transfer, discipline and discharge, (2) observing actual hiring sequences, (3) assisting the District in establishing a train the trainers program to educate and train supervisors and employees on non-political hiring practices, (4)

¹ DCA includes the DCA and/or his staff.

making recommendations to the Court as to how to resolve issues regarding Shakman exempt positions, (5) making recommendations to the District in formulating a new employment plan (the “Plan”)² and monitoring compliance, (6) evaluating and adjudicating claims filed by individuals who believe they were victims of Unlawful Political Discrimination during the claim period and (7) filing periodic reports.

This report describes the District’s employment activities and steps taken to implement the new employment plan and other policies and procedures during the month of October, 2011.

II. MONITORING

A. Training and Similar Activities

1. Activities

The District conducted a number of training sessions required by the SRO and the Plan in October, including the following:

A. Police Officer Applicant Training

The District conducted an informational session for Police Officer applicants on October 11, 2011. The session was conducted by the Director of the Human Resources Department (the “Director of HRD”) and the Director Of Compliance (the “DOC”), and included presentations from the District’s Chief of Police and the third party consultant retained by the District to administer the written examination for police officers. The DCA monitored this session. At the request of the District, the DCA also made a presentation to the group, in which he described unlawful political discrimination and the DCA’s role in monitoring the process. The District conducted this training session in an informative, effective manner.

² The Employment Plan was filed with the court on July 17, 2011. The DCA is monitoring the implementation of and compliance with the Plan.

b. Manager Training

The District also conducted training for all District department heads on October 4, 2011. Attendance was mandatory, and the session was attended by a total of 41 of the District's 44 managers. The District indicated that those absent had valid excuses, and they will be trained in another session.

Topics at the training session included general requirements of the Employment Plan and specific requirements for various employment actions under the Supplemental Policies Manual. Presentations were supported by detailed PowerPoint slides. Attendees were provided with sample forms which they have been required to use as of November 1 in order to document transfers and the issue of overtime. The DCA was asked to review these forms and make suggestions prior to distribution at the meeting, and all of the DCA's suggestions were incorporated into the forms prior to distribution. The DCA was asked to attend the meeting, and staff attending the meeting were introduced to the attendees and asked to respond to questions at various points during the meeting. The session was conducted professionally and effectively, and included information regarding the prohibition of political discrimination in District employment actions.

c. Police Manager Training

The District conducted a special training session for upper-level managers in the Police Department on October 12, 2011. This session covered the specific hiring process applicable to hiring Police Officers and other sworn positions in the Police Department. Although there were a limited number of attendees, this session was also conducted professionally and effectively, and included information regarding the prohibition of political discrimination in all Police Department employment actions.

2. Problems Noted

The DCA noted that the DOC's training of upper-level management in the Police Department did not include training on the interview process. This was understandable because the interview format for the interviews had not been finalized at that point. The DCA is concerned, however, that these managers receive thorough and timely training so they will be prepared to be interview panelists.

3. Recommendations

The DCA has recommended that position-specific interview training be conducted for all openings. This is especially critical for managers in the Police Department who will be responsible for implementing the newly instituted hiring process and the unique "pass/fail" interview format. It has been the District's practice to conduct this type of interviewer training in the hour before the interviews begin. The DCA recommends that this training be conducted in advance of the interview date and that once trained each person be "certified" as qualified to sit on an interview panel. Furthermore, it is recommended that all certified panel members receive annual "refresher courses" and be recertified and that the HRD maintain a list of those certified for use when selecting a panel.

4. Follow-up Needed

The DCA will continue to monitor the District's employment-related training programs. The DCA is satisfied overall with the training sessions conducted in October, and continues to be interested in making sure the District provides appropriate training regarding the Employment Plan, Political Contacts, and Unlawful Political Discrimination in the future as required.

B. Job Postings

1. Activities

The DCA's Office monitored the following posting activities during the month of October:

- a. The posting of Naturalist I
- b. The posting of Resource Specialist II
- c. The posting of Recreation Supervisor
- d. The posting of Training and Development Manager
- e. The posting of Resource Specialist I
- f. The posting of Resource Ecologist III
- g. The posting of Resource Technician
- h. The posting of G.I.S. Specialist
- i. The posting of Administrative Assistant II (Planning and Development)
- j. The posting of Administrative Assistant III (Maintenance – Central Garage)

The District provided documentation relating to the above postings in a timely manner via email. The DCA was asked to review the job descriptions and disqualification questions posted on the District's automated tracking and application system ("ATAS") prior to posting, and the suggestions made by the DCA were accepted and incorporated into the postings by the District. The DCA's Report for September noted that the District did not provide copies of Request to Hire forms to the DCA within five business days of receipt as specified in the Employment Plan for the two positions posted during the month. The District provided the Request to Hire forms for those two positions during October. The District also satisfied this requirement for the positions listed above in accordance with the Employment Plan.

The District extended the postings of Naturalist I and Resource Specialist II due to a change in the minimum qualifications. These postings called for a valid *Illinois* Driver's License. Upon receipt of a complaint from an applicant, the District determined the requirement that applicant's have an Illinois license was too restrictive because it is not necessary for an employee to become a resident of Cook County until 6 months following hire. The District decided to revise its minimum qualification for the positions and to require only a valid driver's license or state identification card (if applicable) for all positions going forward. Before taking action, however, the District consulted with the DCA and sought approval for the change. After the District confirmed that it had the capability of conducting a check of out-of-state driving records and would do so, the DCA did not object to the change. It then contacted via email any applicants who may have been adversely affected by the previous requirement for currently posted positions. The District consulted with their Legal Department, the General Superintendent, the DOC and the DCA prior to making this change.

2. Problems Noted

The DCA noted the following problems with respect to the above postings:

a. Posting Materials

The DCA reviewed the job descriptions and disqualification questions for the above positions prior to posting. Several significant changes were suggested for the job descriptions and disqualification questions of Administrative Assistant II and Administrative Assistant III. Those job descriptions and corresponding disqualification questions did not accurately reflect the actual duties of the position. Of particular concern was language in both job descriptions that the DCA concluded was too vague with respect to the actual duties of the positions and appeared to

be more relative to a *Shakman* exempt position. The DCA gave the District his comments to this effect and all suggested changes were adopted by the District.

The DCA suggested a number of revisions to job descriptions and disqualification questions relating to the other eight positions posted in October. The recommendation addressed a lack of clarity regarding the job descriptions and minimum requirements. The DCA does not consider these to be major problems because none of the issues noted was significant, and the District adopted the DCA's suggestions without hesitation.

b. Failure of ATAS Question to Mirror Minimum Qualification

A minimum qualification for G.I.S. Specialist called for “[o]ne year of practical work experience in related disciplines and processes utilizing ArcGIS software.” The corresponding disqualification question asked whether the candidate had “one (1) year or more of professional work experience utilizing ArcGIS software.”

This discrepancy was observed by the DCA shortly after the position was posted, and the Director was advised. The DCA investigated this issue, and determined the error was likely due to oversight and not due to political discrimination. In the future, the District needs to take steps to ensure that all disqualification questions accurately reflect the minimum qualifications contained on the job descriptions.

3. Recommendations

The DCA has recommended and the District has agreed to revamp the job descriptions for all positions. At this point, the DCA has reviewed job descriptions as they have been revised prior to being posted. In the future, as discussed later in this Report, the DOC will review and

approve job descriptions before their posting, and the DCA will monitor the DOC's review and comment only if necessary.

4. Follow-Up

The DCA will continue to monitor the posting of positions on the ATAS to assure compliance with the Employment Plan and to assess the District's accuracy and consistency in its job postings. The DCA will also monitor the DOC's activities in this regard and report on them in detail in future reports.

C. Hiring Activity

1. Activities

The DCA's Office monitored the following hiring activities during the month of October:

- a. The validation of applications for Civil Engineer III
- b. The Interviews for Civil Engineer III
- c. The Interviews for G.I.S. Manager
- d. The Written Examination for Police Officer Candidates

The District informed the DCA of the above activities in advance, and they were monitored.

2. Problems Noted

The DCA did not detect any major problems with the District's employment activities in October. In his September Report, the DCA noted several problems in the validation process, specifically, that: (a) candidates without completed submissions were validated; (b) a candidate was improperly determined to be eligible and (c) there was improper use of the TALEO log-in. During the validation of Civil Engineer III., the District did not repeat these errors.

The written examination for Police Officer candidates was conducted by a third-party contractor hired by the District pursuant to a request for proposal. The examination included a section on mathematics. The District advised the DCA that, prior to the examination, it had contacted the contractor and requested that the mathematics portion be removed from the test because it did not believe it was relevant to the duties of a District Police Officer. When the District received the test results, however, it discovered that the mathematics portion of the test had not been removed and had been completed by the applicants. The District contacted the company and asked that the mathematics scores be removed from the applicants' scores and that the results be retabulated. This recalculation resulted in the receipt of passing scores by two additional candidates who otherwise would not have been considered eligible to continue in the process. The DCA conducted a check of the two applicants in question and did not discover any known political connections. At this point, the DCA has no reason to believe that the recalculation of scores was due to any unlawful political discrimination.

3. Recommendations

In light of the issues noted in the September Report, the DCA recommended that the District create a written protocol for the validation process. The District told the DCA that it follows the ATAS procedures contained in the Cook County Hiring Procedures Guide and provided the DCA with a copy. While useful, the DCA believes this guide does not address significant events that occur during the validation process, and the DCA reiterates his recommendation that a District draft a specific, step-by-step guide for use by its staff.

4. Follow-Up

The DCA will continue to closely monitor all aspects of the hiring process, including the District's activities on ATAS, as well as the DOC's review of those activities.

D. Hiring of Exempt and Non-Exempt Employees

The DCA has not yet received the Employment Activity Report (EAR) from the District for the month of October. The information for this report is not typically available until after the first pay period of the following month so that the October Report could not be compiled until after the middle of November. No hiring of exempt employees during the month of October were reported.

F. Transfers

The District did not report any transfers during the month of October. The Supplemental Policies and the requirement that managers use transfer forms went into effect on November 1, and the DCA and DOC will begin monitoring their use in November. The DCA's purpose for monitoring will be twofold: (1) to evaluate the District's compliance and (2) to evaluate the DOC's competence in monitoring transfers. The DCA will address these evaluations in the coming months.

G. Demotions

The District did not report any demotions during the month of October. The Supplemental Policies and the requirement that managers document demotions were finalized and at the end of October, and the DCA and DOC will begin monitoring demotion activities in November. The DCA's purpose for monitoring is twofold: (1) to evaluate the District's compliance and (2) to evaluate the DOC's competence in monitoring demotions. The DCA will address these evaluations in the coming months.

H. Disciplinary Actions/Terminations

The District did not report disciplinary actions in October. Terminations are contained in the Employment Activity Report referred to above. The Supplemental Policies and related forms regarding discipline were finalized and filed late in the month. Pursuant to an agreement among the OIIG, the DCA, and the District, the OIIG will begin monitoring disciplinary actions and terminations in November. The OIIG, per agreement of the parties, will be the sole monitor of any disciplinary hearings and the DCA will monitor the OIIG's actions in this regard. The DCA and OIIG met to begin the process of establishing a monitoring protocol. The DCA will monitor the entire process, but for the hearings, for two reasons: (1) to evaluate the District's level of compliance and (2) to evaluate the OIIG's competence in monitoring the process. The DCA will address these evaluations in the coming months.

I. Overtime and Compensatory Time

The District did not report overtime activity in October. The Supplemental Policies and the requirement that managers document overtime were finalized at the end of October, and the DCA, OIIG and DOC will begin monitoring then activity in November. The OIIG and DOC have agreed to coordinate efforts to fulfill their respective overtime monitoring responsibilities under the Plan. The DCA intends to conduct random audits for two reasons: (1) to evaluate the District's compliance with the Supplemental Policies and (2) to evaluate the OIIG and DOC's competence in monitoring the process. The DCA will address these evaluations in the coming months.

III. DIRECTOR OF COMPLIANCE ACTIVITIES

A. Weekly DCA/DOC Meetings

The DCA and the DOC met weekly to discuss her activities and to assist her in meeting the duties required of her office by the Employment Plan. During the October meetings, the DOC reported on her various activities, as well as the activities of the District. She offered her draft documents and forms, and advised the DCA in advance of schedules for meetings and other activities, enabling the DCA to plan for monitors to be present. She also sought the DCA's suggestions about procedures and protocols for several of her duties. The DCA continues to be encouraged by the cooperation shown by the DOC and the District in this regard.

B. Monthly DCA/OIIG/DOC Meetings

During October, the DOC also began attending the monthly DCA/OIIG meetings to discuss matters of joint concern and coordinate efforts. These meetings also allow the DCA to monitor the development of a functional relationship between the DOC and OIIG.

C. Specific Activities

In October, the DOC: (1) trained the District's upper-level Police Department management personnel on the Hiring Process for Sworn Positions contained in the Employment Plan (the "Process") in anticipation of the interviews of candidates for the Police Officer position, (2) trained the District's Department Heads on the Employment Plan and Supplemental Policies, (3) conducted the informational session for candidates for the Police Officer position that is required in the Process, (4) participated in the Town Hall meeting in which the General Superintendent presented the results of the desk audit conducted by an outside consultant with all District employees, (5) collaborated with the Director of HRD on implementing the Process for the open Police Officer position, (6) collaborated with the Director of HRD on developing an employee manual (yet-to-be completed), (7) served as a member of a steering committee

established to implement changes recommended by the agency that conducted the District-wide desk audit, (7) attended the meetings with the DCA and OIIG, as well as a meeting with Judge Schenkier, and (8) identified an issue with regard to the District's timekeeping practices and began investigating further for purposes of recommending a solution.

The DOC also took action to initiate an investigation of the District's procedure for documenting compensatory time earned by employees. This issue is of major concern to the DCA because of its possibility for abuse. The DOC reported that she is working with the District's newly appointed Chief Financial Officer to find a resolution. Further details on this matter will be provided in the November report.

IV. TRANSITION

A. Post-SRO Complaint Administrator to OIIG

The DCA continued the discussions regarding the plan for transitioning post-SRO complaints from Mark Vogel, the court-appointed Post-SRO Complaint Administrator, to the OIIG. The DCA, the Post-SRO Complaint Administrator, the OIIG, and Plaintiffs' Counsel weighed in. All parties agreed that new complaints of Unlawful Political Discrimination filed after October 1, 2011 would be investigated by the OIIG. The Post-SRO Complaint Administrator's role going forward was less clear. At the suggestion of the DCA, the parties scheduled a meeting with Judge Schenkier to discuss steps going forward, finalize the plan and enter an order. That meeting (held in early November) and the resulting order will be discussed more fully in the DCA's November report.

B. DCA to District

The DCA, his counsel and staff met with members of the District's legal department and the Director of HRD on October 13 and, among other things, discussed the future transition of the DCA's activities to the District. The District offered to formalize a proposed plan of transition and submitted its proposal, which gives a timeline for the transfer of all responsibilities under the Plan by December 31, 2011.

While the DCA's objective is to transfer all responsibilities to the District as soon as possible, he does not feel it is appropriate to set artificial deadlines and prefers to transfer responsibilities based upon observable evidence that the District is ready and capable of assuming his responsibilities going forward. For example, by the end of the month, the DCA was confident that the District is capable of assuming primary responsibility for drafting job descriptions. Going forward, the DCA will review job descriptions and related posting materials only after they are completed by HRD and approved by the Director of Compliance.

From the DCA's point-of-view, the more appropriate discussion to be had at this point is the process by which his Office's monitoring under the Plan will go from active to passive. The DCA believes that the monitoring procedure currently in place continues to observe problems that could not be found by means of an auditing process alone. With this said, the DCA has not placed any limitations on the District's ability to show initiative and any initiative shown will weigh heavily in his evaluation of the District's readiness to assume additional responsibilities. The DCA and the District will meet in November to further discuss these issues. That meeting and any resulting agreement will be discussed more fully in the November report.

V. MISCELLANEOUS

A. Supplemental Policies

The Supplemental Policies (“Policies”), including the forms created by the DOC to support documentation of the various employment actions as required by the Plan, were filed with the Court on October 24, 2011 and have been placed on the District’s website. The District’s upper-level Maintenance Department managers are scheduled to be trained on the Policies in November. That training will be discussed in detail in the November report.

Based upon the DOC’s concerns regarding the District’s failure to properly report employees’ accrual of compensatory time, as discussed more fully above, the DCA suggested language governing this issue to be incorporated into the Policies. The DCA and the District will meet in November to discuss that proposed language and a handful of suggestions for further improving the Policies. That meeting and any resulting revisions to the Policies will be discussed in the November report.

B. Resident Watchman Program

During October, the DCA met on a number of occasions with the District employees charged with improving the District’s Resident Watchman Program (“Program”) to assist with its development. The District adopted substantially all of the DCA’s recommendations, which were aimed at increasing transparency and establishing procedures that will prevent Unlawful Political Discrimination in the Program. Once implemented, the Program will be closely monitored by the DCA, OIIG and DOC. It is still being finalized and will be reported upon more fully in the November report. As with the other employment actions discussed, the DCA’s purpose for monitoring will be twofold: (1) to monitor the District’s compliance and (2) to evaluate the OIIG and DOC’s competence at monitoring the Program. These evaluations will be discussed in coming reports.

C. Political Contact Log

The District's Chief of Police provided the DCA and OIIG with copies of a letter submitted to him by the mayor of a Cook County municipality recommending one of applicants for the Police Officer position. The mayor does not appear to have based her recommendation on personal knowledge of the applicant's character or the quality of work. The OIIG does not have jurisdiction over the mayor in questions. Additionally, the Applicant was removed from consideration prior to receipt of the letter as a result of a randomization process called for in the Hiring Process for Sworn Positions. His status was not changed as a result of the recommendation.

D. Desk Audit Recommendation Implementation

As described above, the District conducted a meeting with its entire workforce to advise them of the recommendations made by the independent human resources consulting firm that conducted District-wide desk audits. The District also formed a steering committee charged with studying and implementing those recommendations and posted the report and plans for implementation on its website. The DCA sees these actions as indicative of a commitment to transparency and the development of objective, politically neutral employment practices by the District. The DCA regards this initiative by the District as some evidence of the kind of cultural change the SRO requires for a finding of Substantial Compliance.

To further evaluate the District's commitment to cultural change, the DCA has requested copies of all documents generated by the steering committee and the opportunity to attend its meetings. The District has expressed some concern with this request, and the DCA will address the issue with the General Superintendent in November. This matter will be discussed more fully in the November report.

E. Exempt List

Because the Employment Plan requires exempt employees to meet appropriate minimum qualifications, the DCA made a request for the applications and resumes of all exempt employees hired since implementation of the Employment Plan. The District advised that newly appointed Chief Financial Officer is the only employee falling within that category, and the DOC gave a copy of his application and the job description to the DCA. It appears from those documents that the person hired possesses all of the qualifications required. The DCA has made a standing request for the production of these materials for any and all future, pre-sunset appointments of exempt employees, and the District has agreed to provide them.

F. Performance Evaluations

The DCA learned that District managers completed performance evaluations for the seasonal employees who worked at the aquatic centers in summer 2011 without notifying the DCA and providing an opportunity to monitor. The DCA reminded the District of his request for advance notice of performance evaluations and requested copies of the evaluation forms, and the District agreed to provide notice going forward. The DCA anticipates that the remaining seasonal employees will be evaluated in November and that the evaluators will first be trained on appropriate techniques. Performance evaluations conducted in November and all related trainings will be discussed in the November report.

G. Hotline to the DCA Submissions

The DCA received one anonymous submission to the hotline in September and one in October. The September submission was not addressed in the September report because the individual about which the report was made was scheduled for deposition in October in connection with an investigation being conducted by the Post-SRO Complaint Administrator. The DCA will review the transcript and follow up as appropriate. The allegations in the October

submission were vague and involve an individual of interest from the DCA's Pre-SRO claims investigations. Though it appears that the DCA has previously investigated most of what was alleged, and that the alleged misconduct occurred under the prior administration and management regime, he has advised his staff to verify the current status of the individual at issue. He will follow up on the information as appropriate.

H. District Website

Though the District has technically complied with the Employment Plan by placing all required materials on its website, there is room for improvement to increase transparency. Some of the DCA's recommendations include: (1) reorganizing information to promote ease of navigation, (2) providing simple descriptions of the Supplemental Relief Order and what it means to current and prospective employees, including a clear explanation of the function of the Employment Plan and Supplemental Policies, the existence and justification for Exempt positions, the existence and function of the Political Contact Log, and the roles of the OIIG and the Director of Compliance, (3) creating a link to the OIIG's webpage, and (4) creating a Director of Compliance page. These recommendations and others will be discussed with the District at a meeting in November. Any agreements made will be reported upon in the November report.

CONCLUSION

The District is involved in a great deal of employment activity taking place during the months of October and November. These activities include the postings referred to above in this report as well as the police officer hiring process begun some time before the DCA began his monthly reports. The police officer hiring sequence will be largely completed by the end of

November and the DCA anticipates a detailed discussion of this hiring sequence in his November report.

Respectfully Submitted,

/s/ Jan Carlson

By Peter Monahan
Counsel to the District Compliance
Administrator
Office of the Forest Preserve District
Compliance Administrator
69 W. Washington, Suite 840
Chicago, IL 60602